

HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	
)	NO. 2:16-cv-01556-JCC
Plaintiff,)	
)	[PROPOSED] ORDER AMENDING
v.)	ORDER OF SALE AND
)	APPOINTING RECEIVER
WENDY WIGHT, as Personal Representative of)	
Marjorie Wight,)	
MATTHEW J. MIGEL,)	
WENDY WIGHT,)	
and KING COUNTY TREASURER,)	
)	
Defendants.)	

On February 7, 2023, the United States of America, Defendant Matthew Migel, and Defendant Wendy Wight jointly moved this Court to amend the Order of Sale entered on July 9, 2018 and appoint Steven S. Snider LLC as a receiver to take custody and arrange for the sale of the real property located at 15440 85th Avenue NE, Kenmore, Washington, 982028 (the “Property”). Steve S. Snider LLC is not interested in this action and is competent and qualified to act as receiver.

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1 Upon review of the parties' motion, the record herein, and for good cause shown, the Court
2 hereby GRANTS the motion to amend the order of sale and appoint a receiver (Dkt. No. 62).

3 The Order of Sale (Dkt. No. 49) is AMENDED to allow for the appointment of a receiver
4 to sell the Property. Steven S. Snider is appointed, pursuant to 26 U.S.C. §§ 7402(a) and 7403(d),
5 to act as the receiver to enforce the tax liens at issue in this case according to the terms set out
6 below.

7 **Property Subject to Receivership**

8 Steven S. Snider LLC (hereafter, "the Receiver") is directed to take custody on or after
9 January 24, 2023 and arrange the sale of the Property, legally described as follows, subject to
10 approval by this Court:

11 LOT 9, MOORLAND LANES, ACCORDING TO PLAT RECORDED IN VOLUME 64
12 OF PLATS, PAGE 25, IN KING COUNTY, WASHINGTON.

13 The Receiver is directed to take possession of the Property, including all improvements,
14 buildings, fixtures, materials, contents, and appurtenances thereon, to preserve and protect the
15 value of the Property, and to arrange for the sale of the Property, free and clear of any rights,
16 titles, claims or interests.

17 **The Receivership**

18 The Receiver's sale of the Property shall occur according to the following terms:

19 1. The Receiver shall have the authority to, and is directed to, arrange for the sale of
20 the Property subject to confirmation by this Court. The initial listing price may be set by the
21 United States, in consultation with the Receiver. If lack of buyer interest or buyer feedback
22 indicates that the listing price is too high, the United States, in consultation with the Receiver,
23 may lower the listing price. The United States, in consultation with the Receiver, shall have the
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1 exclusive authority to decide what counteroffers, if any, to make in response to an offer. The
2 United States shall have the exclusive authority to decide whether to accept an offer or
3 counteroffer for the Property, conditioned on Court confirmation.

4 2. The terms of any purchase agreement shall include the balance of the purchase
5 price paid in cash or certified check at closing, and shall include an earnest money deposit, in an
6 amount to be approved by the United States, forfeitable upon the purchaser's failure to perform.
7 Any forfeited earnest money proceeds shall be distributed first to the Receiver to the extent of
8 the expenses incurred by the Receiver in accordance with paragraph 5 of this order, with the
9 remainder to be distributed to King County, U.S. Bank N.A., and the United States, respectively,
10 in accordance with the order of priority established by the July 9, 2018 Order of Sale (Dkt. No.
11 49).

12 3. The United States shall be responsible for the filing of the motion to confirm the
13 sale. Closing shall not occur until after the sale has been confirmed by further order of this Court.
14 At closing, the purchaser or purchasers shall receive a quitclaim deed to the Property, executed
15 by the Receiver, with the interests or other claims of the parties to this action to attach to the
16 proceeds from the sale of the Property in the same order of priority as they currently have against
17 the Property.

18 4. The sale of the Property shall be free and clear of the interests of the United
19 States, Marjorie Wight or her estate, Wendy Wight, Matthew Migel, U.S. Bank N.A. N.D., and
20 the King County Treasurer. On the confirmation of the sale, all interests in, liens against, or
21 claims to, the Property that are held or asserted by all parties this action shall be discharged and
22 extinguished.

1 5. The Receiver shall have all of the rights and powers necessary to fulfill its
2 obligations under this Order, specifically including, but not necessarily limited to, the power to
3 enter the Property, to inspect the Property, to advertise the sale of the Property, to show the
4 Property to prospective buyers, to take any action reasonably necessary to protect and preserve
5 the value of the Property prior to sale, and to put the Property into salable condition, including
6 making expenditures of funds less than \$1,000 (in total) without preauthorization from the
7 United States, or if greater than \$1,000 (in total) first obtaining the authorization of the United
8 States, for reasonable and necessary repairs, maintenance, and minor improvements. Any
9 expenditures will be reimbursed in accordance with paragraph 8 of this Order, to the extent not
10 already paid under paragraph 2. The Receiver shall not have any obligation to advance its own
11 funds to pay any costs or expenses related to the Property.

12 6. Upon information and belief, the Property is vacant as of January 26, 2023. To the
13 extent that the Property is not vacant, any persons occupying the Property shall vacate the
14 property immediately, each taking with them his or her personal property (but leaving all
15 improvements, buildings, fixtures, and appurtenances to the Property). If any person fails or
16 refuses to vacate the Property, the Receiver is authorized to coordinate with the United States
17 Marshals Service to take all actions that are reasonably necessary to have those persons ejected.
18 The United States Marshals Service is further authorized and directed to arrest and/or evict from
19 the premises any and all persons who obstruct, attempt to obstruct, or interfere or attempt to
20 interfere, in any way with the execution of this Order.

21 7. Any personal property remaining on the Property is deemed forfeited and
22 abandoned, and the Receiver is authorized to dispose of it in a manner seen fit, including sale, in
23 which case the proceeds of that sale are to be applied first to the costs and expenses of sale and
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1 the balance shall be paid into the Court registry for distribution. Nothing in this Order shall be
 2 construed to restrict or otherwise interfere with the Internal Revenue Service's ability to
 3 administratively collect against the personal property of Marjorie Wight, in accordance with the
 4 law.

5 **Distribution of Proceeds**

6 8. The Receiver shall be compensated from the proceeds of the sale of the Property:

- 7 (a) in an amount equal to 6% percent of the gross sale proceeds from which
 8 the Receiver must pay any buyer broker commission or if the Receiver
 9 finds the buyer, without having to involve a separate buyer's agent, in an
 10 amount equal to 5% percent of the gross sale proceeds; and
 11 (b) for its reasonable and necessary expenditures incurred in compliance with
 12 paragraph 5 above (e.g., for repairs, maintenance, minor improvements
 13 and/or insurance).

14 The Receiver shall receive payment of the above-described compensation from a
 15 distribution from the proceeds of a sale approved by the Court at closing, as a direct cost of sale,
 16 and before any net sale proceeds are used to pay the claims of the parties to this action.

17 9. Net proceeds after payment of compensation to the Receiver as set forth in
 18 paragraph 8 shall be deposited with the Court unless directed otherwise in a sale confirmation
 19 order. The Clerk of Court shall then distribute the remaining proceeds of the sale as follows, as
 20 far as the proceeds permit:

21 **FIRST**, to King County in full payment of any unpaid local ad valorem taxes
 22 on the Property. The amount shall be determined at the time that the sale is
 23 confirmed. The payments to King County shall be made payable to the "King
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County Treasury” and mailed to the King County Treasury, 500 Fourth Ave., Suite 600, Seattle WA 98104, noting “Parcel Number 563200-0090” on the payment. Any local ad valorem taxes which are not paid in full from the proceeds of the sale shall remain as a lien against the Property in the same priority as before the foreclosure sale.

SECOND, to U.S. Bank N.A. N.D., the current balance of the Deed of Trust against the Property recorded August 16, 2012, with the King County Recorder in an amount according to proof.

THIRD, to the United States, all remaining sale proceeds with interest, to apply to the tax judgment against Marjorie A. Wight. The payment to the United States shall be made payable to the “U.S. Department of Justice” and shall be mailed to the U.S. Department of Justice, Tax Division, Tax FLU, Office of Review, P.O. Box 310, Ben Franklin, Washington, D.C. 20044-0310, and the phrase “CMN 2016101554” shall be written on the memo line of the check.

10. The United States, all of the defendants in this case, and all other persons acting in concert with them, or on their behalf, are hereby restrained and enjoined from doing anything that tends to interfere with or reduce the value or marketability of the Property, or from interfering with the Receiver, or with the Receiver’s efforts to comply with his obligations under this Order. Violations of this paragraph shall be deemed a contempt of court and punishable as such.

To the extent that any provisions of the Order of Sale dated July 9, 2018 (Dkt. No. 49) are inconsistent with any provisions of this Order, the provisions of the Order of Sale are withdrawn.

1 IT IS SO ORDERED.

2 Dated this 17th day of February, 2023.

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6 John C. Coughenour
7 UNITED STATES DISTRICT JUDGE
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9 Presented by:

10 /s/ Lolita De Palma
11 LOLITA DE PALMA
12 Trial Attorney, Tax Division
13 U.S. Department of Justice
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